

May 3, 2019

Mr. Devin Leary
Human & Rohde, Inc.
516 Virginia Avenue
Towson, MD 21286

RE: Gaines Company 112 Westminster Pike
Forest Conservation Variance Request
Tracking # 02-19-2970

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on April 1, 2019. This request would allow the forest conservation worksheet to be based on the approximately 0.1-acre limit of disturbance (LOD) rather than the entire 5.7-acre property to construct a 2,856-square foot two-story commercial addition onto the existing office. Full compliance with the Law would result in a 0.9 acre afforestation requirement.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to construct an office addition to serve an existing business. However, basing the afforestation requirement on the full site rather than just the LOD does not deprive the petitioner of all beneficial use of the property, only the cost of complying with the law. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that their plight is due to unique circumstances and not the general conditions of the neighborhood. The need for the variance arises from the petitioner's request for relief from the full afforestation requirement rather than conditions of the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The proposed development activity is consistent with the current use of the property and the character of the mixed use neighborhood that includes several commercial properties. Therefore, we find that granting the requested variance will not alter the essential character of the neighborhood; thus, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The proposed addition would be over 300 feet from the existing Forest Buffer Easement in the rear of the property (R.W. Plat 03-028). Moreover, it is proposed over existing developed land, and Baltimore County Storm Water Management Law will be met as required. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions that would necessitate this variance prior to requesting it. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. No forest or specimen trees would be impacted by the proposed addition. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. The following note must be on all plans for this project:

A variance to the Forest Conservation Law was granted by Baltimore County Environmental Protection and Sustainability on May 3, 2019 to allow the afforestation requirement to be based on the limit of disturbance rather than the entire site.

2. The final forest conservation plan and its worksheet must be revised to reflect the conditions of this variance and approved by EPS prior to permit issuance.
3. No afforestation will be required for this addition permit, as figures on forest conservation worksheet are rounded to the tenth acre, and the afforestation requirement resulting from this variance is less than 0.1 acre. However, this variance approval does not exempt future development activity at this property from compliance with Baltimore County's Forest Conservation Law.

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It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance, sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If there are any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely,

David V. Lykens
Director

DVL/ges

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Property Owner's Signature

Date

Printed Name